


Linda A. Mumford, M.D., Chairman

**Summary of Proceedings
Kentucky Board of Medical Licensure
Inquiry/Hearing Panel A**

KBML Headquarters
Louisville, KY

9:30 am
November 19, 2009

Members Present

Linda A. Mumford, M.D., Chairman
Preston P. Nunnolley, M.D., President
Susan M. Berberich, M.D.
Uday V. Dave, M.D.
Justice William Graves

Members Absent

Boyd R. Buser, D.O.
William D. Hacker, M.D.
Jay A. Perman, M.D.

Staff Present

C. William Schmidt
Mike Rodman
C. Lloyd Vest, Esq.
Leanne Diakov, Esq.
Sandy Brooks
George Stewart
Betty Prater
Doug Wilson
Bonnie Reitz
Bertha Wallen
Latha Ummaji
Jennie Woods

Others Present

James T. Jennings, M.D.
Donetta Wolfe
Liz Hornback
Carol Wagner
William Jackson, M.D.
John Doyle, M.D.
Chad Elder, Esq.
Rajan Amin, M.D.
J. Fox DeMoisey, Esq.
Gilmore Dutton, Esq.
Chris Massa, M.D.
Joy Kress
William Evans, M.D.
Mike Grogan, M.D.
Chip Cox, M.D.
David Thomas, M.D.

Call to Order

This meeting of Panel B was called to order at 9:30 a.m. by Linda A. Mumford, M.D., Chairman.

Review and Approval of Summary of Proceedings

Following a review of the August 20, 2009 Summary of Proceedings, a motion was made by Justice Graves that they be approved. Seconded by Dr. Dave, the motion carried.

Disciplinary Cases – Final Action

Mazhar Rasul, M.D., License # 37590

The Panel is asked to resolve this case, without an evidentiary hearing, by entering into the proposed Agreed Order. Panel members reviewed a Memorandum from Ms. Leanne Diakov, Assistant General Counsel, the Complaint and a draft of the proposed Agreed Order.

Action: Following discussion, Dr. Dave made a motion to accept the proposed Agreed Order as submitted. Seconded by Justice Graves, the motion carried.

Disciplinary Cases - Requests for Modification

Rajanbhai R. Amin, M.D., License # 19340

On April 14, 2009 Dr. Amin entered into a Second Amended Agreed Order. He is requesting that the Panel terminate this Order. A Memorandum from Mr. Lloyd Vest, General Counsel, was reviewed by the Panel along with Dr. Amin's Second Amended Agreed Order, a Compliance Inspection Report and a Board consultant's findings.

Action: Upon review, Justice Graves moved to grant Dr. Amin's request and terminate his Second Amended Agreed Order. Seconded by Dr. Dave, the motion carried.

John L. Doyle, III, M.D., License # 31288

The Board issued an Order of Revocation against Dr. Doyle's Kentucky medical license on November 16, 2007. Dr. Doyle is petitioning the Board to reinstate his license. The Panel reviewed a Memorandum from Mr. Lloyd Vest, a letter submitted by Dr. Doyle outlining his compliance, Dr. Doyle's Order of Revocation, a letter of support from Dr. Doyle's mentor, correspondence from Dr. James Jennings and two Compliance Inspection Reports. Dr. Doyle and Dr. Jennings were present and addressed the Panel.

Action: After the information was considered, Dr. Dave moved to grant Dr. Doyle's request and reinstate his medical license contingent upon his entering into an Agreed Order. The Panel further moved that the Agreed Order will not be entered until the Board receives confirmation that the two cases in Jefferson Circuit Court filed by Dr. Doyle against the Board are dismissed. Seconded by Justice Graves, the motion carried. Terms and conditions were provided to General Counsel.

William B. Evans, M.D., License # 38135

On April 3, 2009 Dr. Evans entered into an Agreed Order of Indefinite Restriction, and he is now requesting that this Order be modified to allow his prescribing privileges to be restored. A Memorandum from Ms. Leanne Diakov was reviewed along with Dr. Evans' Agreed Order of Indefinite Restriction, a letter of support, two Compliance Inspection Reports and correspondence from Dr. James Jennings who was present and addressed Panel members. Dr. Evans and his attorney were also in attendance.

Action: After review, Dr. Dave moved to grant Dr. Evans' request and amend his Agreed Order of Indefinite Restriction to a six-month Agreed Order. Seconded by Justice Graves, the motion carried. Terms and conditions were provided to General Counsel.

Michael J. Grogan, M.D., License # 21980

Dr. Grogan entered into an Agreed Order of Indefinite Restriction on March 11, 2009 and he is requesting that it be modified to allow him to professionally utilize controlled substances. Panel members reviewed a Memorandum from Mr. Lloyd Vest, Dr. Grogan's Agreed Order of Indefinite Restriction, a letter from Dr. James Jennings and two Compliance Inspection Reports. Dr. Grogan was in attendance.

Action: Upon discussion, Dr. Mumford moved to grant Dr. Grogan's request and modify his Agreed Order of Indefinite Restriction. Seconded by Dr. Dave, the motion carried. Terms and conditions were provided to General Counsel.

William J. Jackson, M.D., License # 18425

On February 19, 2009 Dr. Jackson entered into an Agreed Order with the Board, and one of the stipulations was that he would not reregister his medical license unless approved to do so by the Panel. Dr. Jackson is requesting that the Panel allow him to reregister his Kentucky medical license. A Memorandum from Mr. Lloyd Vest was reviewed by the Panel, as well as Dr. Jackson's Agreed Order and two Compliance Inspection Reports. Dr. Jackson's attorney was in attendance and addressed the Panel.

Action: Following consideration, a motion was made by Justice Graves to allow Dr. Jackson to reregister his medical license provided he enters into an Amended Agreed Order. Seconded by Dr. Dave the motion carried. Terms and conditions were provided to General Counsel.

F. Christopher Massa, M.D., License # 34943

Dr. Massa entered into a Fourth Amended Agreed Order of Indefinite Restriction on June 12, 2008, and he is requesting that his Order be modified. Panel members reviewed a Memorandum from Ms. Leanne Diakov, Dr. Massa's Fourth Amended

Agreed Order of Indefinite Restriction, two Compliance Inspection Reports and a letter from Dr. Jennings who was present and addressed the Panel.

Action: After review, Dr. Dave moved to terminate Dr. Massa's Fourth Amended Agreed Order of Indefinite Restriction. Seconded by Justice Graves, the motion carried.

Mark W. Rukavina, M.D., License # 22686

On March 1, 2006 Dr. Rukavina entered into a Third Amended Agreed Order of Indefinite Restriction. He is requesting that this Order be terminated. A Memorandum from Mr. Lloyd Vest was reviewed along with Dr. Rukavina's Third Amended Agreed Order of Indefinite Restriction, two Compliance Inspection Reports and correspondence from Dr. Jennings who was in attendance and addressed Panel members.

Action: Following discussion, Dr. Dave made a motion to grant Dr. Rukavina's request and terminate his Third Amended Agreed Order of Indefinite Restriction. Seconded by Justice Graves, the motion carried.

David A. Thomas, M.D., License # 27346

Dr. Thomas entered into an Agreed Order of Revocation; Stayed; Amended Agreed Order of Indefinite Restriction on July 1, 2008. Dr. Thomas is requesting that the Panel terminate certain conditions of that Order. Panel members reviewed a Memorandum from Mr. Lloyd Vest, correspondence from the University of Louisville and two Compliance Inspection Reports. Dr. Thomas was present and addressed the Panel.

Action: Upon consideration, a motion was made by Justice Graves to ask Dr. Thomas to enter into an Amended Agreed Order of Indefinite Restriction. Seconded by Dr. Dave, the motion carried. Terms and conditions were provided to General Counsel.

Applications for Renewal/Reregistration (None)

A motion was made by Justice Graves and seconded by Dr. Berberich that the Panel enter into Executive Session in order to discuss and deliberate upon:

matters currently in litigation;
pending investigations that may result in litigation;
applications involving confidential treatment records.

The specific statutory sections providing exemptions are 61.810(1)(c), 61.810(1)(j), 61.810(1)(k), 61.878(1)(a), 61.878(1)(h) and 311.619. Motion carried.

Non-Compliance Cases

Warren M. Cox, M.D., License # 24435

On September 18, 2007 Dr. Cox entered into an Amended Agreed Order of Indefinite Restriction with the Board. One of the conditions of that Order was that Dr. Cox was to pay an imposed fine, which he has failed to do. An Investigative Report from Ms. Betty Prater, Board Investigator, was reviewed by the Panel along with Dr. Cox's Amended Agreed Order of Indefinite Restriction and a Compliance Inspection Report. Dr. Cox was present and addressed the Panel.

Action: After discussion, a motion was made by Justice Graves to ask Dr. Cox to enter into an Amended Agreed Order of Indefinite Restriction. Seconded by Dr. Dave, the motion carried.

Kentucky Physicians Health Foundation

Dianne E. Drake, M.D., License # 32630

This is a new case involving a report from the Kentucky Physicians Health Foundation that Dr. Drake had a positive urine drug screen for alcohol. Panel members reviewed an Investigative Report from Mr. Doug Wilson, a letter from Dr. Jennings, an Assessment Report from MARR and a response from Dr. Drake. Dr. Jennings was in attendance and addressed the Panel.

Action: Upon review, Dr. Dave moved to ask Dr. Drake to enter into an Agreed Order, and if she refuses, to file a Complaint. Seconded by Justice Graves, the motion carried.

Michael D. Hamilton, M.D., License # 32467

On June 22, 2009 Dr. Hamilton entered Bradford Health Services for treatment of his opiate dependence, and he was successfully discharged on October 13, 2009. A Memorandum from Mr. Lloyd Vest was reviewed along with an Investigative Report from Mr. Doug Wilson, information from Bradford Health Services, a letter from Dr. Jennings who was in attendance and addressed the Panel and a proposed Agreed Order that has been signed by Dr. Hamilton.

Action: After consideration, a motion was made by Dr. Dave to ratify the Agreed Order. Seconded by Justice Graves, the motion carried.

Old Cases

Husam E. Hamed, M.D., License # 36543

Dr. Hamed entered into a Second Amended Agreed Order on November 20, 2008. Per the directives of that Order the first consultant review is being presented for the Panel's review. A Memorandum from Ms. Leanne Diakov was reviewed by the Panel along with Dr. Hamed's Second Amended Agreed Order, the Board consultant's findings, a Compliance Inspection Report and a response from Dr. Hamed.

Action: Following consideration, a motion was made by Dr. Mumford to accept the consultant's findings for informational purposes. Seconded by Dr. Dave, the motion carried.

Marc L. Holbrook, M.D., License # 18602

At its August 2009 meeting, the Panel determined that Dr. Holbrook should be fined \$500 for releasing an intubated patient to a Basic Life Support EMS crew. They further voted that if he declined to enter into an Agreed Order of Fine, a Complaint should be issued. Dr. Holbrook has declined to enter into the Agreed Order of Fine. The Panel reviewed a Memorandum from Ms. Leanne Diakov and a Board consultant's findings.

Action: After discussion, Justice Graves moved that the Panel's previous directives be amended and that the investigation be closed. He further moved to send a letter to the Lexington FMC concerning their operational protocols. Seconded by Dr. Berberich, the motion carried.

Michael S. Nethers, M.D., License # 27334

Panel A first considered this case at their May 21, 2009 meeting and voted to issue a Complaint, which was filed on June 17, 2009. The Panel also required Dr. Nethers to enter into an Interim Agreed Order, which he did on June 18, 2009. The Panel is being asked to determine if it wishes to amend the existing Complaint to add an allegation of a standard of care violation. A Memorandum from Mr. Lloyd Vest was reviewed as well as the Complaint and Interim Agreed Order, a Board consultant's report, a response from Dr. Nethers and an additional report from a consultant procured by Dr. Nethers.

Action: Upon review, Dr. Dave made a motion to conduct further investigation into this case. Seconded by Justice Graves, the motion carried.

Marc R. Secor, M.D., License # 23629

Dr. Secor entered into an Agreed Order with the Board on February 15, 2007. A stipulation of that Order mandated periodic chart reviews to be performed by a Board consultant upon his completion of the CPEP Post Program. A chart review has been conducted and the results are being presented to the Panel for their review. An Investigative Report from Ms. Bonnie Reitz, Board Investigator, was reviewed by the

Panel along with Dr. Secor's Agreed Order, a list of patient summaries from Dr. Secor and a Board consultant's findings.

Action: Following discussion, a motion was made by Dr. Dave to accept this for informational purposes. Seconded by Dr. Berberich, the motion carried.

New Cases – Investigated

Allergicare Relief Center

This is a new case regarding a grievance filed against Allergicare Relief Center alleging that a chiropractor at that facility is practicing medicine without a medical license. The Panel reviewed an Investigative Report from Mr. George Stewart and a response from Daniel Farr, D.C.

Action: After discussion, Dr. Berberich moved that this conduct constitutes the practice of medicine and should be referred to the Kentucky Board of Chiropractic Medicine and to the Office of the Attorney General for any action they deem appropriate. Seconded by Justice Graves, the motion carried.

Shelley Bennett, M.D., License # 15468

A complaint was filed against Dr. Bennett by a hospital concerning his prescribing of controlled substances, his failure to complete physical exams and failing to maintain medical charts of patients. An Investigative Report from Mr. Eric Tout, Board Investigator, was reviewed along with a compliance letter from the hospital, a response from Dr. Bennett and two reports from a Board consultant.

Action: Upon review, a motion was made by Dr. Dave to ask Dr. Bennett to enter into an Agreed Order, and if he refuses, to file a Complaint and Emergency Order of Restriction. Seconded by Justice Graves, the motion carried. Terms and conditions were provided to General Counsel.

Randall S. Brown, M.D., License # 18596

The Board received a grievance against Dr. Brown concerning his overprescribing of controlled substances. The Panel reviewed an Investigative Report from Mr. George Stewart, Dr. Brown's response and a Board consultant's findings.

Action: After review, Dr. Mumford moved to file a Complaint and Emergency Order of Suspension. Seconded by Dr. Dave, the motion carried.

Patrick L. Burba, M.D., License # 29358

This is a new case involving a grievance filed against Dr. Burba alleging that he prescribed unnecessary medications to a patient. Panel members reviewed an

Investigative Report from Mr. George Stewart, a Board consultant's report and a response from Dr. Burba.

Action: After discussion, Dr. Dave moved to send Dr. Burba a Letter of Concern as well as a copy of the Board consultant's findings. Seconded by Dr. Berberich, the motion carried.

Paul H. Christensen, M.D., License # 32979

A complaint was filed against Dr. Christensen alleging that he failed to provide minimal standard of care to a patient. The Panel reviewed an Investigative Report from Mr. George Stewart, a Board consultant's findings and a response from Dr. Christensen.

Action: Following review, Dr. Dave made a motion that there was no evidence of a violation of the Medical Practice Act and no further action was necessary. Seconded by Justice Graves, the motion carried.

Manuel DeLaRocha, M.D., License # 15657

This is a new case involving a grievance against Dr. DeLaRocha alleging that he is prescribing controlled substances inappropriately to a child and the mother is diverting them for her personal use. An Investigative Report from Mr. George Stewart was reviewed by the Panel along with Dr. DeLaRocha's response and a Board consultant's report.

Action: Upon consideration, a motion was made by Dr. Dave that the incident disclosed an instance of misconduct that does not warrant the issuance of a Complaint but that a Letter of Admonishment should be directed to Dr. DeLaRocha. Seconded by Justice Graves, the motion carried.

Avichai Eres, M.D., License #27415

A grievance was received alleging that Dr. Eres inappropriately prescribed a statin medication to a patient. An Investigative Report from Mr. Eric Tout, a Board consultant's findings and a response from Dr. Eres were reviewed by the Panel.

Action: After discussion, Dr. Dave moved that there was no evidence of a violation of the Medical Practice Act and no further action was necessary. Seconded by Justice Graves, the motion carried.

Mariano A. Galang, M.D., License # 27611

This case was reviewed by Panel A at their August 2009 meeting at which time it was decided that disciplinary action was warranted. Following that meeting, additional information was received, and at today's meeting the Panel reviewed that information along with the previous Investigative Report from Ms. Betty Prater, Board Investigator, and Dr. Galang's response.

Action: Following review, a motion was made by Dr. Dave that there was no evidence of a violation of the Medical Practice Act and no further action was necessary. Seconded by Dr. Berberich, the motion carried.

Susan M. Lichtenberger, M.D., License # 29626

This is a new case regarding a grievance filed against Dr. Lichtenberger alleging that she failed to provide quality care. Panel members reviewed an Investigative Report from Mr. Eric Tout, a Board consultant's findings and a response from Dr. Lichtenberger.

Action: After discussion, Dr. Dave moved that there was no evidence of a violation of the Medical Practice Act and no further action was necessary. Seconded by Justice Graves, the motion carried.

Angela K. Maggard, M.D., License # 33263

A grievance was received against Dr. Maggard claiming that she failed to provide quality care. The Panel reviewed an Investigative Report from Ms. Bonnie Reitz, a response from Dr. Maggard and a Board consultant's report.

Action: Following review, a motion was made by Dr. Mumford that there was no evidence of a violation of the Medical Practice Act and no further action was necessary. Seconded by Dr. Dave, the motion carried.

M. Diane McElheney, M.D., License # 15149

A patient filed a complaint against Dr. McElheney alleging that she refused to treat him as a patient and abandoned him without notice. An Investigative Report from Mr. Eric Tout was reviewed by the Panel along with a Board consultant's findings and a response from Dr. McElheney.

Action: After consideration, Dr. Mumford made a motion to send Dr. McElheney a Letter of Concern. Seconded by Dr. Dave, the motion carried.

Nagy H. Morsi, M.D., License # 32513

A grievance was filed against Dr. Morsi by a surgical technologist who claimed that he was unprofessional and disrespectful to her while she was assisting him in a surgery. The Panel reviewed an Investigative Report from Mr. Doug Wilson, the hospital incident report, statements from several hospital employees and a response from Dr. Morsi.

Action: After discussion, Justice Graves moved to ask Dr. Morsi to enter into an Agreed Order, and if he refuses, to file a Complaint. Seconded by Dr. Dave, the motion carried. Terms and conditions were provided to General Counsel.

North American Laserscopic Spine Institute

A complaint was filed against North American Laserscopic Spine Institute (NALSI) alleging that their advertisement about laser endoscopic evaluation of the spinal canal is misleading. Panel members reviewed an Investigative Report from Ms. Betty Prater, the NALSI web page and a response from the attorney for NALSI.

Action: Upon review, a motion was made by Dr. Mumford that there was no evidence of a violation of the Medical Practice Act and no further action was necessary. Seconded by Dr. Dave, the motion carried.

Larry E. Perry, M.D., License # 35454

The Board was notified that Dr. Perry's medical license has been suspended by the Tennessee Board of Medical Examiners. An Investigative Report from Mr. Doug Wilson was reviewed by Panel members as well as the Order of Summary Suspension from Tennessee and the Tennessee investigative report.

Action: After consideration, Dr. Mumford made a motion to file a Complaint and Emergency Order of Suspension. She also moved to conduct further investigation and give Mr. Vest the authority to amend the Complaint, as needed. Seconded by Dr. Dave, the motion carried.

Christodulos Stavens, M.D., License # 24509

This is a new case concerning the fact that Dr. Stavens failed to report on his 2009 renewal application a hospital action taken against him. An Investigative Report from Ms. Betty Prater was reviewed by the Panel along with information from the hospital and a response from Dr. Stavens.

Action: Following discussion, Dr. Mumford moved to send Dr. Stavens a Letter of Concern and ask him to enter into an Agreed Order of Fine, and if he refuses, to file a Complaint. Seconded by Dr. Berberich, the motion carried. Terms and conditions were provided to General Counsel.

Frederick A. Walker, D.O., License # 02907

The Board received a grievance against Dr. Walker concerning the fact that he was practicing medicine without a license. The Panel reviewed an Investigative Report from Ms. Betty Prater and a response from Dr. Walker.

Action: After consideration, Dr. Dave moved that the incident disclosed an instance of misconduct that does not warrant the issuance of a Complaint but that a Letter of Admonishment should be directed to Dr. Walker. He further moved to ask Dr. Walker to enter into an Agreed Order of Fine, and if he refuses,

to file a Complaint. Seconded by Justice Graves, the motion carried. Terms and conditions were provided to General Counsel.

Christian F. Weigel, M.D., License # 32171

Information was received from Kentucky Drug Enforcement regarding Dr. Weigel's overprescribing of controlled substances. Panel members reviewed an Investigative Report from Mr. Eric Tout and a Board consultant's findings.

Action: Following review, a motion was made by Dr. Dave that there was no evidence of a violation of the Medical Practice Act and no further action was necessary. Seconded by Justice Graves, the motion carried.

New Cases – Not Investigated

Deep Ajmani, M.D., License # 36867

A patient filed a grievance against Dr. Ajmani alleging that he failed to complete a Certificate of Death for her mother in a timely manner. The grievance and a response from Dr. Ajmani were reviewed by the Panel.

Action: After discussion, Dr. Dave moved to send Dr. Ajmani a Letter of Concern. Seconded by Justice Graves, the motion carried.

Naeem Akhtar, M.D., License # 42309; Anthony J. Siegel, M.D., License # 25474

A complaint was filed against Dr. Akhtar and Dr. Siegel alleging that they prescribed medications to the grievant's son who supposedly was allergic to those medications. The Panel reviewed the grievance and responses from Dr. Akhtar and Dr. Siegel.

Action: Upon review, a motion was made by Dr. Dave that there was no evidence of a violation of the Medical Practice Act and no further action was necessary. Seconded by Justice Graves, the motion carried.

Michael J. Brown, M.D., License # 35789

Our office received a complaint against Dr. Brown alleging that he falsified a patient's medical records. Panel members reviewed the grievance and a response from Dr. Brown.

Action: Following consideration, Dr. Dave made a motion to send Dr. Brown a Letter of Concern. Seconded by Justice Graves, the motion carried.

Thomas C. Crain, M.D., License # 28770

A grievance was filed against Dr. Crain claiming that he prescribed Hydrocodone to the grievant's son who has been addicted to pain killers. The grievance and Dr. Crain's response were reviewed by the Panel.

Action: After a review of the information, a motion was made by Dr. Mumford to open an investigation on this case. Seconded by Dr. Dave, the motion carried.

Bernard B. Dailey, D.O., License #A 02034

A patient filed a complaint against Dr. Dailey claiming that he failed to provide quality care when he abruptly changed her medications. Panel members reviewed the grievance and a response from Dr. Dailey.

Action: Following discussion, Justice Graves moved that there was no evidence of a violation of the Medical Practice Act and no further action was necessary. Seconded by Dr. Dave, the motion carried.

Jennifer A. Fuson, M.D., License # 34331; Emily W. Cunningham, M.D., License # 36519

Our office received a grievance from a patient of Dr. Fuson and Dr. Cunningham alleging that they approved the misdiagnosis of her condition by their Physician Assistant and then refused to talk with her when she expressed concerns about it. The Panel reviewed the grievance, a response from Dr. Fuson and a response from Dr. Cunningham.

Action: After review, a motion was made by Dr. Dave that there was no evidence of a violation of the Medical Practice Act and no further action was necessary. Seconded by Dr. Berberich, the motion carried.

Michael J. Growse, M.D., License # 30184

A grievance was filed by an inmate who claimed that Dr. Growse failed to provide quality care. The grievance and a response from Dr. Growse were reviewed by the Panel.

Action: Upon consideration, Justice Graves moved that there was no evidence of a violation of the Medical Practice Act and no further action was necessary. Seconded by Dr. Dave, the motion carried.

Deborah K. Hamilton, M.D., License # 36806

A patient filed a grievance against Dr. Hamilton claiming that she wrongfully accused the patient of being a drug seeker. The Panel reviewed the grievance and a response from Dr. Hamilton.

Action: Following review, a motion was made by Justice Graves that there was no evidence of a violation of the Medical Practice Act and no further action was necessary. Seconded by Dr. Dave, the motion carried.

William D. Holland, M.D., License # 38236

Our office received a complaint against Dr. Holland alleging that he failed to provide adequate medical counseling. Panel members reviewed the grievance and Dr. Holland's response.

Action: Following discussion, Dr. Dave made a motion that there was no evidence of a violation of the Medical Practice Act and no further action was necessary. Seconded by Dr. Berberich, the motion carried.

Daniel R. Lance, M.D., License # 33133

A complaint was filed against Dr. Lance alleging that he was aggressive with the grievant's five-year-old son during their office visit. The grievance and Dr. Lance's response were reviewed by the Panel.

Action: Upon consideration, Dr. Mumford moved to open an investigation on this case. Seconded by Dr. Dave, the motion carried.

Jason M. Meckler, M.D., License # 39649

We received a complaint from a patient who alleges that Dr. Meckler misdiagnosed her condition. Panel members reviewed the grievance and a response from Dr. Meckler.

Action: After review, a motion was made by Dr. Berberich that there was no evidence of a violation of the Medical Practice Act and no further action was necessary. Seconded by Justice Graves, the motion carried.

Rebecca J. Sutton, M.D., License # 34205

A grievance was filed against Dr. Sutton by a patient who claimed that she was unprofessional and discriminated against him based on his sexual orientation. The Panel reviewed the grievance and Dr. Sutton's reply.

Action: Following discussion, Dr. Dave made a motion to send Dr. Sutton a Letter of Concern. Seconded by Dr. Mumford, the motion carried.

Timothy A. Winchester, M.D., License # 24034

Our office received a grievance against Dr. Winchester alleging that he failed to provide minimum standards of care to her mother. The grievance and Dr. Winchester's response were reviewed by the Panel.

Action: Upon consideration, Justice Graves moved that there was no evidence of a violation of the Medical Practice Act and no further action was necessary. Seconded by Dr. Berberich, the motion carried.

Actions in Other States (None)

Malpractice Settlements/Judgments

Information concerning the following physicians was presented to the Panel as a result of malpractice settlements or judgments made against them in excess of \$250,000.

Walter T. Bowers, M.D., License # 32910

Upon review of a malpractice settlement, it was requested that this case be reviewed by a specialist in Obstetrics. Panel members reviewed an investigative report from Mr. Eric Tout, a response from Dr. Bowers, the findings of a Board consultant and Dr. Bower's response to the consultant's report.

Action: Upon discussion, Dr. Mumford moved to further investigate this case and have additional cases reviewed by the consultant. Seconded by Dr. Dave, the motion carried.

William E. Bowles, D.O., License # 02474

This malpractice case was reviewed by a Board member, and it was recommended that this case be reviewed by a consultant specializing in Gastroenterology. An Investigative Report from Ms. Bonnie Reitz was reviewed by the Panel along with a Board consultant's findings and a response from Dr. Bowles.

Action: After review, a motion was made by Justice Graves that there was no evidence of a violation of the Medical Practice Act and no further action was necessary. Seconded by Dr. Dave, the motion carried.

William R. Compton, M.D., License # 40037

This is a malpractice case involving Dr. Compton. After being reviewed by a Board member, it was recommended that this case be reviewed by a consultant specializing in Internal Medicine. Panel members reviewed an Investigative Report from Ms. Betty Prater, as well as Dr. Compton's response and a Board consultant's report.

Action: Following consideration, Justice Graves moved that there was no evidence of a violation of the Medical Practice Act and no further action was necessary. Seconded by Dr. Dave, the motion carried.

Mary L.T. Lu, M.D., License # 25642

Following a Board member's review of this malpractice case, it was recommended that it be reviewed by a Board consultant specializing in Dermatology. The Panel reviewed an Investigative Report from Ms. Bonnie Reitz and the consultant's findings.

Action: After discussion, Justice Graves made a motion that there was no evidence of a violation of the Medical Practice Act and no further action was necessary. Seconded by Dr. Berberich, the motion carried.

Pursuant to Board policy, members of the Panel reviewed the following malpractice cases previously reviewed by a Board member and a consultant who recommended no action:

Timothy Carroll, M.D.
John R. Johnson, M.D.
Gary E. Yochim, D.O.

Following a review of these cases, it was the consensus of the Panel members that no further action was necessary and these cases should be closed.

Other Items (None)

Date of Next Meeting

The next Panel A meeting is scheduled for February 18, 2010.

Adjournment

There being no further business open for discussion, a motion was made by Dr. Dave that the meeting be adjourned at 12:30 pm. Seconded by Dr. Berberich, the motion carried.

The following cases are exempt from open records pursuant to KRS 311.619.

Disciplinary Cases – Requests for Modification

William B. Evans, M.D., License # 38135

On April 3, 2009 Dr. Evans entered into an Agreed Order of Indefinite Restriction, and he is now requesting that this Order be modified to allow his prescribing privileges to be restored. A Memorandum from Ms. Leanne Diakov was reviewed along with Dr. Evans' Agreed Order of Indefinite Restriction, a letter of support, two Compliance Inspection Reports and correspondence from Dr. James Jennings who was present and addressed Panel members. Dr. Evans and his attorney were also in attendance.

Action: After review, Dr. Dave moved to grant Dr. Evans' request and amend his Agreed Order of Indefinite Restriction to a six-month Agreed Order. It was further moved that if after six months the consultant review is positive then the Agreed Order will be changed to a Letter of Agreement. Seconded by Justice Graves, the motion carried. Terms and conditions were provided to General Counsel.

F. Christopher Massa, M.D., License # 34943

Dr. Massa entered into a Fourth Amended Agreed Order of Indefinite Restriction on June 12, 2008, and he is requesting that his Order be modified. Panel members reviewed a Memorandum from Ms. Leanne Diakov, Dr. Massa's Fourth Amended Agreed Order of Indefinite Restriction, two Compliance Inspection Reports and a letter from Dr. Jennings who was present and addressed the Panel.

Action: After review, Dr. Dave moved to terminate Dr. Massa's Fourth Amended Agreed Order of Indefinite Restriction provided he enters into a one-year Letter of Agreement. Seconded by Justice Graves, the motion carried. Terms and conditions were provided to General Counsel.

Mark W. Rukavina, M.D., License # 22686

On March 1, 2006 Dr. Rukavina entered into a Third Amended Agreed Order of Indefinite Restriction. He is requesting that this Order be terminated. A Memorandum from Mr. Lloyd Vest was reviewed along with Dr. Rukavina's Third Amended Agreed Order of Indefinite Restriction, two Compliance Inspection Reports and correspondence from Dr. Jennings who was in attendance and addressed Panel members.

Action: Following discussion, Dr. Dave made a motion to grant Dr. Rukavina's request and terminate his Third Amended Agreed Order of Indefinite Restriction provided he enters into a one-year Letter of Agreement. Seconded by Justice Graves, the motion carried. Terms and conditions were provided to General Counsel.

New Cases – Investigated

Anand M. Gupta, M.D., License # 33458

This is a new case involving a grievance filed against Dr. Gupta by two patients who alleged that he performed an EGD and colonoscopy on them without proper sedation and against their wills. Panel members reviewed an Investigative Report from Ms. Betty Prater, a response from Dr. Gupta and a Board consultant's findings.

Action: Following discussion, Dr. Dave made a motion to ask Dr. Gupta to enter into an Interim Agreed Order (Diversion), and if he refuses, to file a Complaint. Seconded by Justice Graves, the motion carried. Terms and conditions were provided to General Counsel.